

## REMARKS

Applicant acknowledges receipt of the *Office Action* dated December 19, 2005 wherein: (1) claims 1-12, 14, 15, 17, 18, 20, 21 and 25-42 were rejected under 35 U.S.C. §102(e); (2) claims 13, 16, 19, 22-24, 43 and 44 were objected to as being dependent upon a rejected base claim, but are otherwise allowable; and (3) claims 45-65 were allowed.

### *Status of the Claims*

Claims 1-65 are currently pending and in original form.

### *Allowed Claims*

Applicant acknowledges with appreciation the allowance of method claims 45-65.

### *Allowable Subject Matter*

Claims 13, 16, 19, 22-24, 43 and 44 stand objected to as being dependent upon a rejected base claim, but would otherwise be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicant acknowledges with appreciation the allowability of claims 13, 16, 19, 22-24, 43 and 44.

### *Claim Rejections under 35 U.S.C. § 102(e)*

Claims 1-12, 14, 15, 17, 18, 20, 21 and 25-42 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,659,203 to Cruickshank et al. (hereinafter *Cruickshank*). Applicant respectively traverses this rejection and submits that none of the pending claims 1-12, 14, 15, 17, 18, 20, 21, and 25-42 are anticipated by *Cruickshank*. As set forth in MPEP § 706.02(IV), in order for a reference to anticipate the invention as claimed, the reference must disclose each and every element recited in the claims. Applicant respectively submits that at least because *Cruickshank* fails to disclose a selectively removable flow restriction means as required by each of the independent claims 1, 20, 35; *Cruickshank* fails to disclose each and every element recited in the pending claims.

*Cruickshank* discloses a lockable motor assembly 1 for use in a well bore comprising a motor 2 with a rotor 4 and a stator 3 (col. 3, lines 53-55). When run into the well, the rotor 4 of the motor 2 is locked to the stator 3 by means of a locking member 12. The locking member 12

has an externally splined projection 13 that mates with an internally splined recess 14 of the rotor 4, and also external splines 15 that mate with splines 16 on a stabilizer sub 5 connected to the stator 3. Thus, when the locking member 12 is in a first position shown in Figure 1, the rotor 4 cannot rotate relative to the stator 3 (col. 4, lines 8-17).

The locking member 12 is maintained in its first position by a shear ring 23 (col. 4, lines 45-59). Once the motor 2 is in the well bore, if pressure within the through passage 17 of the locking member 12 exceeds the pressure within the annulus surrounding the tool, a force is exerted on the locking member 12 that may be sufficient to shear the shear ring 23, thereby causing the locking 12 member to unlock the rotor 4 by moving to the position shown in Figure 6 (col. 5, lines 8-19).

To control the amount of fluid flow in a through passage 19 of the rotor 4 during operation of the motor 2, a nozzle 33 may be provided therein. The nozzle 33 may be chosen to have an aperture 34 that allows fluid to flow through the nozzle 33 to set the packer below, but restricts the rate of fluid flow in the through passage 19 once the rotor 4 has been released and the motor 2 is in operation (col. 5, lines 32-37).

The *Office Action* asserts that the nozzle 33 disposed within the through passage 19 of the *Cruickshank* rotor 4 reads on the "selectively removable flow restriction means" of independent claims 1, 20, and 35 because the nozzle 33 is anticipated to be selectively removable by mechanical means. In response, Applicant respectfully submits that *Cruickshank* makes no suggestion whatsoever that this nozzle 33 is selectively removable, nor does *Cruickshank* disclose any means for selectively removing the nozzle 33. Instead, as shown in Figure 1 and Figure 3, the nozzle 33 is disposed downstream of the splined recess 14 in the rotor 4 and fixed into position via a block (unlabeled) that is surrounded by the body of the rotor 4. In order to remove the nozzle 33 by mechanical means as suggested in the *Office Action*, the entire motor 2 would have to be tripped out of the well and disassembled. Thus, Applicant submits that *Cruickshank* teaches a flow restriction means comprising a permanently installed nozzle 33 that is not selectively removable.

Therefore, Applicant respectfully submits that at least because *Cruickshank* fails to disclose a selectively removable flow restriction means, *Cruickshank* fails to disclose each and every element of independent claim 1, each and every element of independent claim 20, and each and every element of independent claim 35. Accordingly, Applicant submits that independent claims 1, 20, and 35 are patentably distinguishable over *Cruickshank*. Additionally, Applicant notes that pending claims 2-12, 14, 15, 17 and 18 each depend from and incorporate the limitations of claim 1; pending claims 21 and 25-34 each depend from and incorporate the limitations of claim 20; and pending claims 36-42 each depend from and incorporate the limitations of claim 35. Thus, Applicant respectfully submits that claims 2-12, 14, 15, 17, 18, 21, 25-34, and 36-42 are likewise allowable over *Cruickshank*.

**CONCLUSION**

Consideration of the foregoing remarks, reconsideration of the application, and withdrawal of the rejections and objections is respectfully requested by Applicant. No new matter is introduced by way of the response. It is believed that each ground of rejection raised in the *Office Action* dated December 19, 2005 has been fully addressed. If any fee is due as a result of the filing of this paper, please appropriately charge such fee to Deposit Account Number 50-1515 of Conley Rose, P.C., Texas. If a petition for extension of time is necessary in order for this paper to be deemed timely filed, please consider this a petition therefore.

If a telephone conference would facilitate the resolution of any issue or expedite the prosecution of the application, the Examiner is invited to telephone the undersigned at the telephone number given below.

Respectfully submitted,

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